

Part 1 – Multiple choice questions (points: 10/30)

Tick the correct or the most correct answer (only one answer for each question):

- 1) What is meant by international society?
 - a. It includes all individuals entertaining relations with other individuals in another country
 - b. It is the whole of States living in relations with one another**
 - c. It is an organ established to adopt legal provisions

- 2) What is international law?
 - a. It is the laws of other countries
 - b. It is the legal order of the international society**
 - c. It is the set of constitutional rules of a State dealing with its relations with other States

- 3) When did the current structure of international law originate?
 - a. At the time of the Westphalia peace (1648)**
 - b. On 11 September 2001
 - c. Since the aftermath of the Second World War

- 4) What are the constitutive elements of the international society?
 - a. The World Constitution of 1648
 - b. Sovereign States**
 - c. Anarchy

- 5) How is the norm-making function performed in the legal order of the international society?
 - a. By the UN General Assembly, ie the world's parliament
 - b. By the United States
 - c. Through participation and consent of States**

- 6) How is law ascertained within the international legal order (ie, determination of whether a norm has been respected)?
 - a. Through a centralized judicial system, at the top of which there is the International Court of Justice
 - b. By unilateral assessment of States**
 - c. By international diplomatic conferences

7) How are international rules made respected?

- a. In most cases, through self-implementation by a State of its own international obligations, including in its judiciary system
- b. By recourse to the use of force, especially by the US
- c. Only through imposition of international sanctions and the exercise of police powers by the UN Security Council

8) State sovereignty as the constitutive principle of international law implies

- a. A State's willful acceptance of constraints under international law
- b. A State's independence in adopting world-wide rules
- c. A State's dependence on external authorities

9) Subjectivity in international law

- a. Refers to the status of individuals
- b. Refers to the right of each State to have its own identity
- c. Refers to the entitlement to rights and obligations of international law

10) International legal subjects (ie, legal subjects of the that legal order which is international law)

- d. Are international organizations and non-governmental organizations
- e. Are States and International organizations
- f. Are States and International organizations (full subjectivity) as well as insurgents, peoples and individuals (partial subjectivity)

11) Under international law,

- g. If an entity shows the features of a State, it has international legal subjectivity
- h. International legal subjectivity is not a pre-requisite to be a State
- i. Statehood, sovereignty and international legal subjectivity are not simultaneous

12) The constitutive elements of the notion of State under international law are:

- j. Government, territory, independence
- k. Territory, population, constitution

l. Territory, population, government

- 13) An entity is a State under international law if:
- m. It governs a population within a territory
 - n. It effectively and independently governs a population within a territory**
 - o. It governs a population within a territory as recognized by other States
- 14) Under international law,
- p. A State is identified with its population
 - q. Territorial dimensions are not relevant for statehood**
 - r. "government" means "the executive power" only
- 15) The exercise of governmental powers is effective
- s. if the State is big
 - t. only if it is legitimate, ie is premised on and in line with a previous constitution
 - u. upon the capacity to rule a territorial community**
- 16) The expression "independence of the State" under international law refers to:
- v. Economic independence from foreign manufacturing systems
 - w. Formal independence from foreign legal systems**
 - x. Autonomy of the territorial administrative subdivisions of the State concerned
- 17) Recognition of a State?
- y. is a negotiated status
 - z. is a political act**
 - aa. can only be explicit, never implied
- 18) For an entity to be considered a State under international law
- ab. It must be recognized by all other States
 - ac. It must be recognized by at least another State
 - ad. Recognition by other States is not a constitutive element**

Part 2 – Essay question (points: 10/30)

States as the primary international legal subjects: constitutive elements.

States are a combination of a permanent population, a defined territory and a government that is able to defend itself. These three elements; territory, population and government are the requirement of any primary international legal subject. In regards to territory the actual size is not as important as the spatial dimension as long as the state has authority over this it meets the first requirement however this entity cannot have authority over simply a community it must be defined as a territory. The next requirement, population can be defined as a group of individuals that live together in a stable boarder with a similar political identity. This can be seen using the Constutive elements of a *ubi societas, ibi ius* or where there is a society, there is law. This society/ population is created with the same shared basis and therefore needs laws to govern itself. This is where the second part of consitutive elements and requirements for a state comes in; Government. Because states with a population need laws it creates this there is a need for “*ubi ius, ibi constitutio*” or where there is law there is a constitution. In this way a government is formed from the creation of laws and the need for a constitution. This creates a primary international legal subject that can be seen as the state.

Part 3 – Case study (15/30)

This case studies refers to the lectures on State sovereignty as delved into in the powerpoint presentation (including, if relevant, online materials linked to from the slides thereof) and in the notes on the explanation and examples given in class. A ‘guide’ on how to develop your answer to the case is below.

Topic: Sovereignty over a given territory from the perspective of international law

Case

The States of Iliots and of Gallis have a dispute in place, concerning to which of the two States sovereignty over the Crystal Islands belongs. This dispute has a complex historical background.

In a nutshell, Iliots asserts that its claim to sovereignty over the islands is based primarily on its Constitution of 1848 a.C. In this regard, Iliots provides cartography material dating back to the time of occupation of the islands by the Iliots army to support its claim – although the army is not there anymore.

Gallis claims that sovereignty over the islands at stake belongs to it, because the few individuals living there on a permanent basis possess its citizenship. Moreover, it finances scientific research activities which are carried out there. In addition, Gallis asserts that Elvets, a State in the same region, has recognized that those islands pertain to Gallis in its Declaration of Amity with the State of Gallis. A treaty concluded between Gallis and Elvets after that declaration specifies that its territorial coverage extends to the Crystal Islands from the side of Gallis.

Against these claims by the States in dispute, you must develop relevant legal arguments on whose and which claims to sovereignty are determinant under international law. In other words, you must analyse if and how it is possible to answer the question: which State exercises sovereignty over the Crystal Islands?

Guide for the answer

- 1) recall the relationship between sovereignty and statehood, as well as the essential elements of statehood, from the perspective of international law
- 2) mention whether other elements are irrelevant for the purpose of establishing statehood
- 3) analyse the claims of the two States in respect of essential and/or irrelevant elements

- 4) identify any possible missing essential element in the claims
- 5) elaborate any possible determination on the dispute, in the light of the general rules (1 and 2 above) and of the given claims (3 and 4 above).

From the perspective of international law a State claim of sovereignty over any other states claim is only effect is the three constitutional elements of Territory, population and government are meet.

In terms of Illiots there is a much weaker claim over the Crystal Islands as one of the main claims used regards the constitution of 1848 where the Island origin was under their control however at least under international law this is an irrelevant element in terms of statehood as age is not a constitutional requirement. Additionally, it is noted that the army an essential part of being able to have a govern is no longer there making the Illiots unable to defend themselves. If I(maybe reenstate an army or why did the army leave)

On the other hand Gallis's assertins have a more complete essablishement of staehood even throught they themselves do not meet all of the requierments. To begin Gallis has stake in the population as the residents of the Islands have permanent residence thogught Gallis citizenship. Addiontaly another factor that isn't necessary for statehood but would help Gallis's right for the rights to crystal island is it's recognition to the territory by Elvets. Elvets has formaly recognized Gallis's statehood through the Declaraiton of Amity which recognizes Galli's claims to the territory. A last irrevalnt factor is Gallis scientics resech activity this has no purpose in establishing statehood as for example there are reserch activituies in the Actice circle but there isn't a real claim for any country.

In conclusion, while neither of the two have a true stathood for the crystal Island Gallis does have the population requirement and so their case is stronger for the ownership over the islands.